

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHNNY PHILAVANH,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting
 Commissioner of Social Security,

Defendant.

Case No. 2:15-cv-01796-APG-GWF

ORDER

Plaintiff's Application to Proceed in
 Forma Pauperis (#1)

This matter is before the Court on Plaintiff's Application to Proceed *In Forma Pauperis* (#3), filed on September 18, 2015.

BACKGROUND

Plaintiff alleges a claim against the Social Security Administration (SSA), challenging its denial of social security disability benefits. Plaintiff alleges that at all times relevant to this action, he was disabled as defined by the Social Security Act. Plaintiff claims that the Social Security Commissioner, initially and upon reconsideration, denied his requests for disability insurance benefits and supplemental security income. Plaintiff states that he timely requested review of the ALJ's decision with the Appeals Council, which was denied on July 17, 2015. Plaintiff now seeks judicial review of that final agency decision.

DISCUSSION

I. Application to Proceed In Forma Pauperis

Plaintiff filed this instant action and attached a financial affidavit to his application and complaint as required by 28 U.S.C. § 1915(a). Having reviewed Plaintiff's financial affidavit pursuant to 28 U.S.C. § 1915, the Court finds that Plaintiff is unable to pre-pay the filing fee. Therefore, Plaintiff's request to proceed in forma pauperis in federal court is granted.

II. Complaint

Plaintiff brings suit against the SSA alleging he was wrongfully denied social security disability benefits. Federal courts only have jurisdiction to conduct judicial review of the SSA's final decisions. *See* 42 U.S.C. § 405(g); *see also Pacific Coast Medical Enterprises v. Harris*, 633 F.2d 123, 137 (9th Cir. 1980). Plaintiff appears to have fully exhausted his administrative remedies with the SSA. The Court will therefore allow Plaintiff's complaint to proceed as a petition for judicial review of a final agency decision. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Application to Proceed *In Forma Pauperis* (#1) is **granted**. Plaintiff shall not be required to pre-pay the full filing fee of four hundred dollars (\$400.00).

IT IS FURTHER ORDERED that the Clerk of the Court shall file the Complaint.

IT IS FURTHER ORDERED that the Clerk of the Court shall serve the Commissioner of the Social Security Administration by sending a copy of summons and Complaint by certified mail to: (1) Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear Street, Suite 899, San Francisco, California 94105, and (2) the Attorney General of the United States, Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.

IT IS FURTHER ORDERED that the Clerk of the Court shall issue summons to the United States Attorney for the District of Nevada, and deliver the summons and Complaint to the U.S. Marshal for service.

IT IS FURTHER ORDERED that Defendants shall have **sixty (60) days** from the date of service to file their answer or responsive pleading to Plaintiff's Complaint in this case.

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1 **IT IS FURTHER ORDERED** that henceforth, Plaintiff shall serve upon Defendant, or their
2 attorney if they have retained one, a copy of every pleading, motion, or other document submitted
3 for consideration by the court. Plaintiff shall include with the original paper submitted for filing a
4 certificate stating the date that a true and correct copy of the document was mailed to Defendant or
5 their counsel. The court may disregard any paper received by a district judge, magistrate judge, or
6 the Clerk which fails to include a certificate of service.

7 DATED this 18th day of March, 2016.

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10 GEORGE FOLEY, JR.
11 United States Magistrate Judge
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